IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 2941 of 2007(A)

PETITIONER:

M/S. XEROX INDIA LTD.,
36/1951, 1ST FLOOR, KALOOR TOWERS, ELAMKULAM ROAD,
KALOOR, KOCHI-682 017, ERNAKULAM DISTRICT,
REPRESENTED BY ITS MANAGER C.A.,P.VISWANATHAN.

BY ADV. SRI.A.KUMAR

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, COMMERCIAL TAXES,
GOVT.OF KERALA, TRIVANDRUM.

2. COMMISSIONER OF COMMERCIAL TAXES,
DEPARTMENT OF COMMERCIAL TAXES, TRIVANDRUM.

3. DEPUTY COMMISSIONER (APPEALS),
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

4. ASSISTANT COMMISSIONER (AUDIT ASSESSMENT
DEPARTMENT OF COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 2941 OF 2007-A

JUDGMENT

The petitioner has approached this Court, feeling aggrieved by Ext.P7 interim order passed by the 3rd respondent in Ext.P5 appeal filed by it against Ext.P4 assessment order. Tax has been demanded at the rate of 12%, whereas, according to the petitioner, it is liable to pay only at the rate of 4%. In support of that submission, Ext.P3 clarification issued by the Commissioner of Commercial Taxes is relied on. It is pointed out that the 4% tax due has already been collected and remitted. Therefore, the direction to pay 50% of the amount is unjustified. It is a mechanical order, it is submitted.

2. I head the learned Government Pleader for the respondents also. Prima facie, I feel considerable force in the submission of the petitioner, going by Ext.P3. Accordingly, it is ordered that the collection of tax pursuant to Ext.P4 will remain in abeyance till the disposal of Ext.P5 appeal, provided the petitioner furnishes security for the amount due from it under Ext.P4 within three weeks. The petitioner shall co-operate with the appellate authority for hearing of the appeal. The appellate authority will

endeavour to dispose of the appeal within four months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

30th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/